IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE FOURTH DAY OF APRIL

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.6729 OF 2006

Between**:**

Yeduru Sanyasi Rao … Petitioner

Versus

Greater Visakha Municipal Corporation,

Represented by its Commissioner,

Visakhapatnam. … Respondent

Counsel for the Petitioner: M/s. G.L. Nageswara Rao

Counsel for the Respondents: Sri N.Ranga Reddy,

SC for MPL Corporation.

O R D E R :

This writ petition is filed seeking mandamus to direct the respondent to act in accordance with law and forbear from interfering with his possession and enjoyment in respect of the house plot and house thereon at D.No.70-1-4K, 45th ward, Yeduruvanipalem, Mind Post, Visakhapatnam in survey no.14/1 of Mulagada taluk, Yeduruvanipalem village, Visakhapatnam, without following due procedure of law,

without providing opportunity and hearing the petitioner about the proposed action.

The case of the petitioner is that he is the absolute owner of the house bearing D.No.70-1-4K, 45th ward, Yeduruvanipalem, Mind Post, Visakhapatnam, in survey no.14/1 of Mulagada taluk, Yeduruvanipalem village, Visakhapatnam. The petitioner acquired the said land from his father, Sri Y.Mutyalu son of Sanyasi by way of will in the year 1963 and since then he is in peaceful possession and enjoyment thereof. Thereafter, in the year 1984, he had constructed a slab house in the site after obtaining permission from the Gram Panchayat but later it was merged in the respondent-corporation and assessed the property-tax to his house.

It is stated that the petitioner after obtaining permission from the Gram Panchayat, constructed the building in the year 1984 and since then he is regularly paying municipal tax and other revenue tax to the respondent-corporation. It is also stated that the petitioner obtained electricity service connection, drinking water pipeline, drainage system etc.

While things stood thus, the respondent-corporation is trying to demolish the building and compound wall of the petitioner without issuing any notice though the petitioner got lawful entitlement to the house plot and also the house constructed thereon.

The grievance of the petitioner is that the respondent-corporation is trying to demolish his building and compound wall without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is in

utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case, the respondent is directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him from the house bearing D.No.70-1-4K, 45th ward, Yeduruvanipalem, Mind Post, Visakhapatnam, in survey no.14/1 of Mulagada taluk, Yeduruvanipalem village, Visakhapatnam without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

APRIL 04th, 2005. ----------

I s L. V. ESWARAIAH, J.

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